

JC
178
X3
1810

UC-NRLF



\$B 195 812

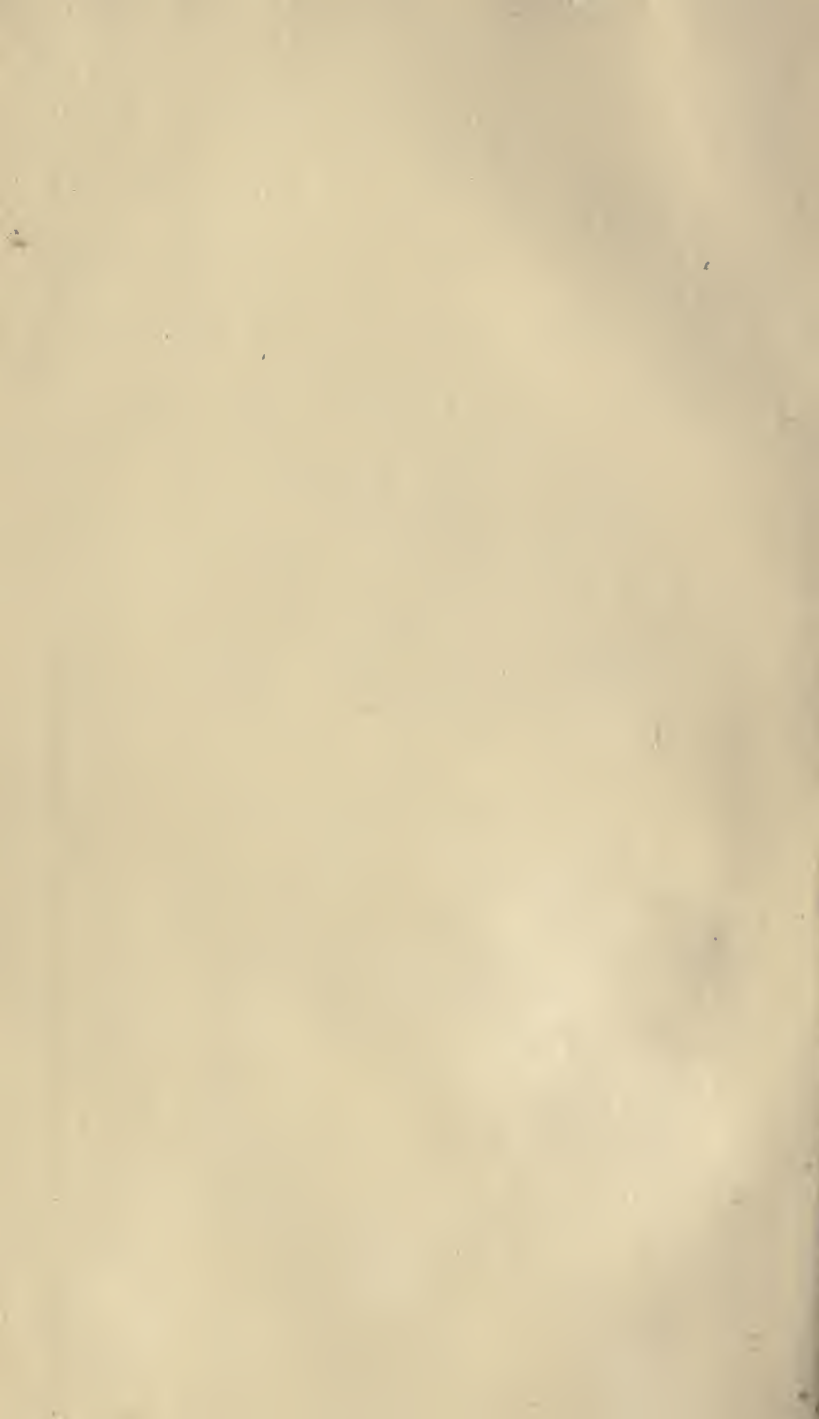
YC191556



LIBRARY
OF THE
UNIVERSITY
OF
CALIFORNIA



Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation



S P E E C H

OF

COUNSELLOR SAMPSON,

ON THE TRIAL OF

JAMES CHEETHAM,

FOR LIBELLING

MADAME BONNEVILLE,

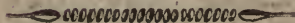
IN HIS

Life of Thomas Paine ;

WITH A

SHORT SKETCH OF THE

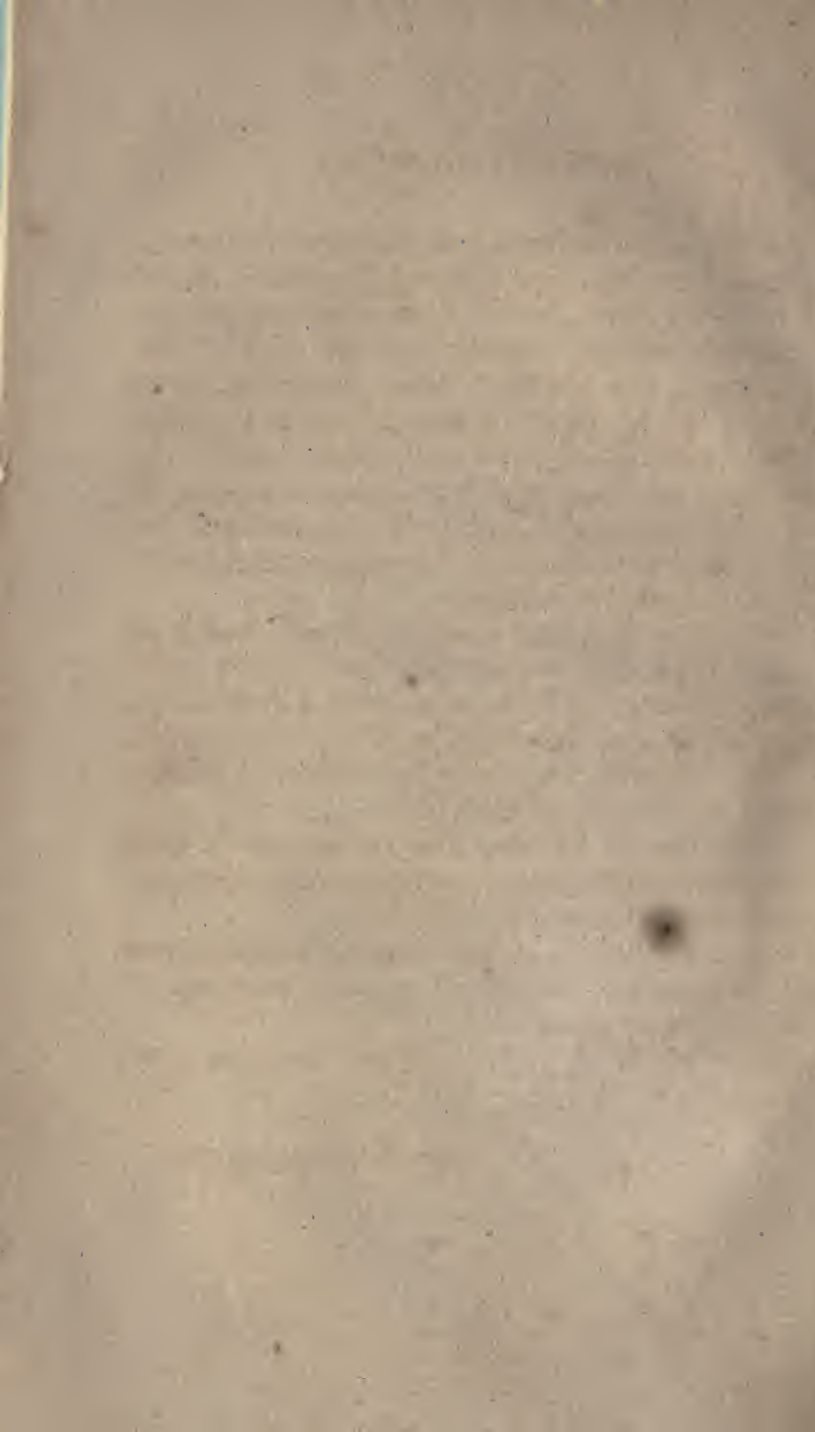
TRIAL.



NEW-YORK :

PRINTED BY CHARLES HOLT.

1810.



JC178
X3
1810

ADVERTISEMENT.

THE public interest and curiosity have been so strongly excited by the detached portions which have been given in the newspapers, of the arguments of the counsel, on the trial of Mr. *Cheetham*, for libelling Mrs. *Bonneville*, in his *Life of Paine*, that it is deemed useful to collect those sketches into a pamphlet form, for the gratification of those who have not been able to obtain the newspapers, and for the convenience of preserving them beyond the ephemeral existence of a diurnal publication.

It was hoped that a more full and correct report of the trial would have been given to the public; but no indications of such a compilation appearing, the following brief account is given.

The extracts from the indictment are taken from the records of the court.

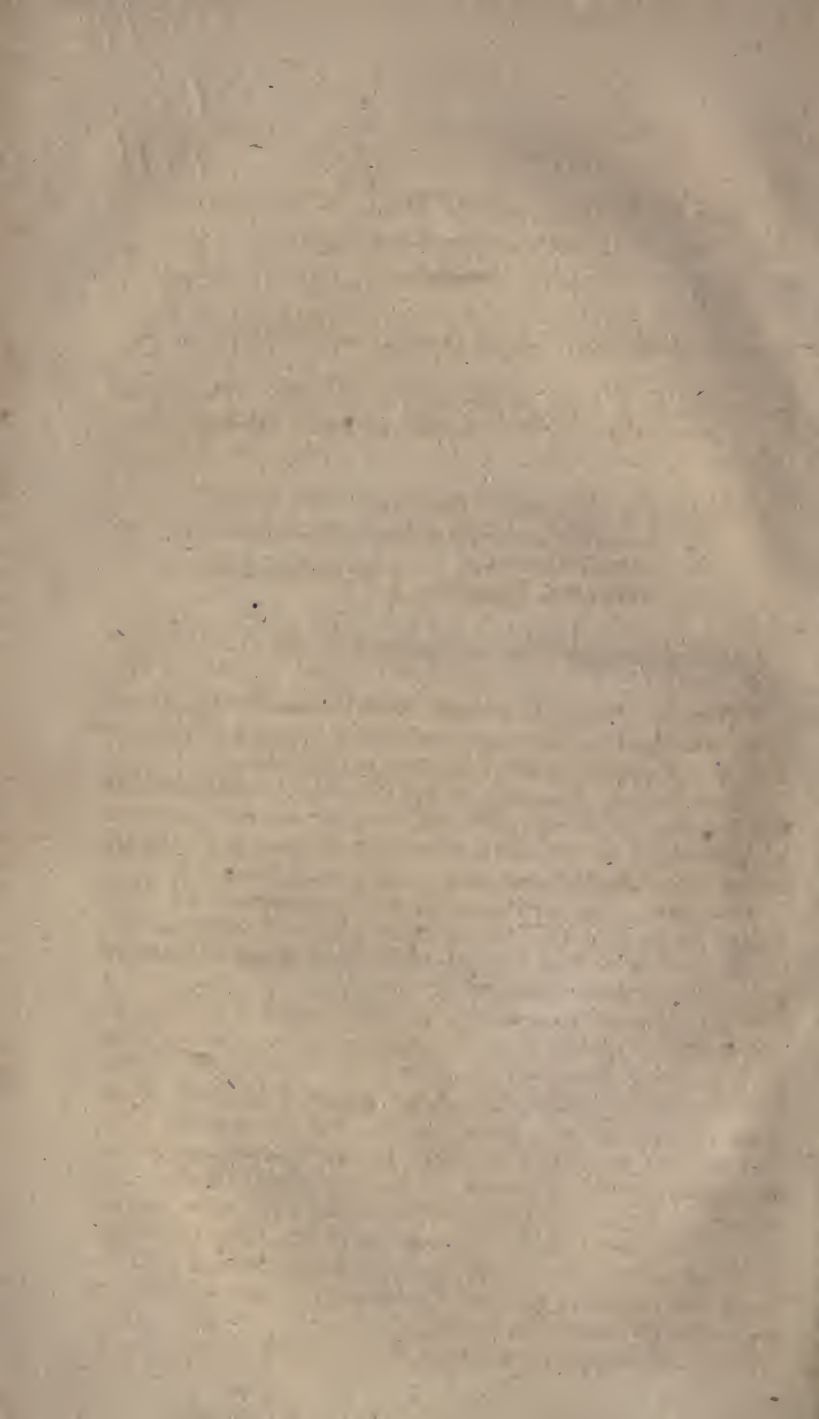
The sketch of Mr. *Rose's* argument is from the *American Citizen*, a newspaper of which the defendant is the editor.

And the speech of Mr. *Sampson* is copied from the *Columbian*, in three separate numbers of which it first appeared.

The whole is given without alteration or remark, by

THE PUBLISHER.

July 20, 1810.



NEW-YORK GENERAL SESSIONS.

THE PEOPLE *vs.* JAMES CHEETHAM.

Indictment for a Libel on Madame Bonneville. Tried June 19, 1810. C. D. COLDEN, district Attorney.

Present—The Hon. JACOB RADCLIFF, Esq. Mayor,
JOSIAH OGDEN HOFFMAN, Esq. Recorder,
PETER MESIER, } Esqrs. Aldermen.
WILLIAM TORREY, }

THE libel charged in the indictment is as follows :

“ Thomas (alluding to a son of Mrs. Bonneville) has the features, countenance and temper of Paine. Madame Bonneville arrived at Baltimore a few days after her paramour.”

“ Encouraged, therefore, by the President, countenanced by the presence of Bonneville’s wife, and cheered with his bottle, he commenced at Washington the publication of half a dozen letters, addressed to the citizens of the United States.”

“ In making his arrangements for a permanent residence amongst us, he contemplated the abandonment of Madame Bonneville, whom he had seduced from her husband in Paris and brought amongst strangers.”

“ But his cruel treatment of her soon dissipated the delusion, and convinced all who knew him, that to the crime of seduction he was adding that of inhumanity.”

“ She (alluding to Mrs. Bonneville) presented the order. Paine said, I’ll put it in my pocket and read it in the morning. No, said she, you must sign it to-night ; I want to return and get the things to-morrow. I cannot read in the night, I’ll keep it till morning. Then, said Madame Bonneville, with some temper, if you wont read it to-night, give it me back. Paine resisted all her importunities : he kept the paper until the morning, when he found that instead of an order for clothing, it was a bond duly drawn for seven hundred pounds.”

“ She wished that he was dead.”

“ He was guilty of the worst species of seduction ; the alienation of a wife and children from a husband and a father.”

The defendant was found GUILTY, and the judgment of the court is as follows :

“ Fined one hundred and fifty dollars, the costs to be taken out of it.”

Counsel for the prosecution, Messieurs Colden and Sampson ; for the defendant, Messieurs Rose, Griffin, and D. B. Ogden.

The publication being admitted by the defendant, the question of libel or no libel was brought immediately before the jury.

Mr. ROSE opened the cause of the defendant in a speech which was admired by all who heard it, for its neatness and perspicuity, and which, though our limits do not allow us to give more than an outline of the trial, we regret it is not in our power to lay before the reader in the elegant diction in which it was clothed. Having stated in terms of approbation which we cannot repeat, the motives of Mr. Cheetham for writing the life of Paine, Mr. Rose said, there is much truth in the adage—tell me the company you keep, and I will tell you what you are ;—that he could not refrain from begging the particular attention of the jury to it. Mr. Sampson has told you that the lady sues for her reputation. A woman, gentlemen, that complains of the loss of reputation should, (Mr. Rose observed) have had the reputation to lose. What could we think of the character of a mother, the wife of a man in Paris, who had placed herself and children under the protection of a man, who having raised to himself a column of immortal glory by writing against the kings of the earth, had wantonly and wickedly demolished it by waging an impious war against the King of Heaven ? Yet my client had no wish to meddle with the character of this woman. That which he has published was communicated to him in a way which authorised him to communicate it to the public, and had nothing of the malice which is essential to a libel. He does not know Madame Bonneville, whom he has never to this moment seen. How, then, could he be actuated by malice towards her ? It was merely to illustrate the character of Paine, by stating his connexions with her, that she was introduced into the work at all. We all remember the late philosophical president Jefferson, who in his Notes on Virginia particularizes the murder of Logan’s family by Cresap. (Here Mr. Rose cited the narrative of the murder, and repeated a part of Logan’s celebrated speech.)—Mr. Martin (Mr. Rose continued) publicly addressed several letters to Mr. Jefferson, in which he denied the truth of his statement, respecting Cresap. In the appendix of a recent edition of

the Notes, Mr. Jefferson investigates the complaint of Mr. Martin, and blames him for stepping at once into the newspapers, without having previously and privately enquired on what grounds the author had related the pathetic story. If Cresap was slandered, Logan, not Mr. Jefferson was the slanderer, for Logan, in the delicious eloquence which he has left us, stated the circumstances of the murder to others, who had communicated them to Mr. Jefferson, in a manner which justified that gentleman in the propagation of them in the form in which they are now found. So of Madame Bonneville. If she be libelled, those who communicated the facts to Mr. Cheetham so as to warrant his statement of them, are the libellers. She ought therefore to have called upon Mr. Cheetham's informants, and if there were ground for complaint, to have made them answerable. Yet when Mr. Emmet wrote to the defendant and pointed out to him on the behalf of Madame Bonneville, what he considered as errors of fact, Mr. Cheetham readily consented to correct them on the authority of Mr. Emmet. Did this show malice? What more could be expected? And here it was concluded that the matter was at rest. The required alterations were made in the work; new sheets were printed at considerable expence, and the old ones expunged from it. What then has dragged this settlement from its oblivion? Who advised the prosecution? *Deism* had no hand in it? Would to God we could bring the man to court who has prompted Madame Bonneville to this prosecution, and who advised Paine on his death-bed not to acknowledge his Saviour lest christians should triumph! Here Mr. Rose was interrupted by Mr. Colden, on the allegation that Mr. Rose was going beyond the matter at issue. Mr. Rose continued—Think you this cause would have been brought into this court if *Deism* was not the basis of it? The object of the prosecution is undoubtedly to suppress a work which—[Mr. Rose paid some compliments to the work, which the reader must excuse us for not repeating.] But we are told of the unfeelingness of bringing an innocent female before the public in an odious light. Yes, another Cleopatra is to be introduced upon the stage to grace a deistical triumph. And who is Madame Bonneville? Would to God her son was here to testify that he reproached her with living with a man who had broken up the tranquillity of his father's house? Here Mr. Colden again interrupted Mr. Rose, on the ground that this part of his opening was irrelevant, there being no testimony to support it. The court reserving the question, decided that Mr. Rose might proceed. Who is Madame Bonneville? for I will again, said Mr. Rose, ask the question.—To this enquiry Mr. Colden again objected, as extraneous.—

What then was Paine, the household deity of Madame Bonneville? A man devoid of morality, a drunkard, and a blasphemer of our Saviour. Was this an altar for a mother to teach her children to kneel at? Mr. Rose concluded with asserting that the only discoverable malice was in the prosecution, with repeating that the object of it was to suppress a work which alarmed the Deists, and with maintaining that as the defendant had published nothing respecting Madame Bonneville, which had not been communicated to him, which he did not believe to be true, and had reasonable ground for his belief, he was not guilty of a libel.

MR. SAMPSON'S REPLY.

GENTLEMEN OF THE JURY;

The counsel who closed the defence finished by cautioning you against the eloquent declamation of his adversaries; with what justice you can judge. It scarcely became him to do so, after he and his colleagues had added to every practical resource that skill and deep finesse could offer, a torrent of declamation, and a display of talent worthy a better cause. Far different is the track I shall pursue. It would be of little profit to the people, in whose behalf I now appear, or to that injured lady in defence of whose unsullied honour I stand forward, to mix her claim with any topic foreign to her cause. The rattling tongue of saucy eloquence, the loud audacious rant of boisterous words, would ill accord with the sad accents of woman's tender sorrows, and those instructions she has given, which are commands to me. If I could lay before you the silent anguish of her grief-worn soul, her wounded spirit, and her broken heart, I should be eloquent, and eloquent enough.

But who is he that can describe the wounds that show not outwardly, but bleed within, which art can never cicatrize nor time assuage? Who can relate the torments of that moment, when first she felt the stroke of sudden desolation, and found the barbed arrow in her heart? She who stood spotless before God and man, who never had in word or deed offended. Who after many griefs and sore adversities, had sought a refuge on your hospitable shores. Who had in this obeyed the counsel of

her lawful husband, and brought with her, as to a land where law and justice reigned, one half of those dear infants whose love bound them together by a mutual tie, and grappled their affections to a weary world.

Was it not enough to satiate this cruel libeller, that he had scattered far and wide his venomed shafts through all this terrified community? that he had carried discord, pain and sorrow to every heart, poisoned the cup of friendship, troubled the social board, and rioted in mischief? that he had spared no principle, no party, no virtue, nor no friend? but must a wretched female, whose merit and misfortune would command respect from any but a savage, whose modest life and laudable endeavors to be useful, were crowned with approbation by those whose confidence should be to her and to the world a stamp of sterling worth; was she, too, to be dragged from modest privacy, to make a part of his obscene and blasphemous histories? coupled with the celebrity of Paine, and in whatever country of the earth, whatever distant period of time yet to come, the searching eye of curiosity, or keener scent of scandal should fix upon this work, which he calls history and I call villainy, to stand therein emblazoned as the guilty heroine of the odious tale, the strumpet of one described to be the foulest and the filthiest of men!

But what is strange to me, who am not versed in secret history, who meddle little with the hidden springs of others' actions, or the unseen motives that bring mysterious things to light, is this, that he should find to justify this crime, the eloquent tongues which very lately had depicted him as the most scurrilous and monstrous libeller that ever suffered from offended justice. That any man could countenance such acts I must lament; that honest men should do it with such zeal I am pained to see. But what these honorable gentlemen have done is but perhaps a course which their profession warrants. Perhaps within themselves they are contented because they think that while they make a proud display of talent, it is impossible cruel success or unjust victory can follow. So they may reason with their consciences, but I esteem them well enough to think that in their hearts they would despise the verdict that crowned their efforts.

I do not envy them their cause, although I feel how much it is more easy and more light to sport with topics when the heart is free, and where defeat itself brings pleasure with it, than to wield a cause in which to fail would be to suffer, not the little mortification of being vanquished in a game of skill, but the deep and poignant dejection that afflicts the honest mind, when crime and insolence obtains a triumph over humanity.

The confidence with which this cause was opened to you, the bold effrontery with which he who stands accused came forward in the sanctuary of the law to justify a now acknowledged libel and a falshood, by scandal still more heinous and more barefaced, with compurgators who would within but two years past have spurned him from them, seemed to bespeak what I shall never name. The thought is shocking to an honest mind ; may heaven avert such shame from all of us.

For me, I find all words so poor to paint the sense I have of such injustice, that if I thought it possible that the defendant's confidence was grounded in the favor of any of his judges, I should resolve to sit me down, commend the lady's cause in silent prayer to heaven, and trust to him whose ways are merciful to compass her with his benign protection. Indeed to him alone she now must look for consolation ; for man can give her little, and reparation she can never have, nor peace this side the grave. Already has her sad celebrity flown to the furthest corner of the earth ; already has the wanton calumny reached those distant friends whose kind remembrances were all the balm fate had reserved for her. She feels their anguish added to her own. It is one wound that pierces many hearts. She cannot name the father of her children ; if she does, the thought like lightning flashes on her mind, that her once tender name is now reproachful. She cannot cast a look of mother's love upon her innocent infants, but the keen idea shoots through her soul, that they are stigmatized in history with infamy and bastardy, blighted and blasted in their dawn of life.

In every other grief than that which this historian has inflicted on her, the innocent find comfort ; for innocence is in all other wrongs, against all other strokes of man's injustice, a sevenfold shield. Not so where woman's honour is assailed. Suspicion there is worse than death itself. It is that shame to which the chaste Lucretia, rather than seem consenting, preferred to plunge a dagger in her heart. It is that shame for which alone the innocent wife of Cæsar was repudiated. The man who dares attack a woman's honor, is of all other criminals the greatest. If he be not a traitor, it is for this alone, that he is worse. For many a man has suffered as a traitor, whom after-ages have revered and honored. But never yet was he who set his cloven foot upon a woman's honor, worthy the name of man.

[Here the defendant rose and claimed the protection of the court, not so much with a desire to prevent the range of the ingenious counsel, as to prevent the utterance of personalities

that it would not be thought prudent perhaps to repeat out of court.

While the defendant was addressing the court, the counsel calmly advanced, and taking a pinch of snuff, modestly observed that what he was doing now was in court, and what was to be done out of court was not to be talked of here. Then pointing to the defendant, and casting a significant look upon him, he proceeded.]

This unrighteous man has by this very movement of his choler justified all that I can ever say. If *he* complains of personalities, *he* who is hardened in every gross abuse ; who lives reviling and reviled ; who might construct himself a monument with no materials but those records to which he is a party and in which he stands enrolled a libeller, if he cannot sit still to hear his accusation, but calls for the protection of the court against a counsel whose duty is to make his crimes appear ; how much does *she* deserve protection, whom he has driven to the sad necessity of coming here to vindicate her honor from personalities which he has lavished on her ? Did not his opening counsel say before you, that he could make the color fade upon this lady's cheek, and wish that she might be in court to hear him ? regret that her own son was not here present to testify against her ? Was not this monstrous personality ? And when it is considered that before this very cause drew near its close, the other counsel of this same defendant rose and told you, that they admitted her character was spotless, and for the reason that no reproach was cast upon it, desire you to acquit their *innocent* client, who is a mere historian, who never could have malice, who was more ready to rectify his errors than others to observe them.

But it is well, and I am glad that I was interrupted ; for the very evil genius that waits upon his life, has here for once worked to an honest end. And whilst my voice was almost choaked with crowding truths struggling for utterance, and whilst the swell of honest indignation rose even to suffocation, he came forward and pointed my attention to that subject which first deserved rebuke.

I had said that in the catalogue of crimes, none could be found more base than his. Not treason, for the reasons I have given. Not murder—for he who murders life, murders all sorrow with it ; but he has doomed this lady to days of sorrow and to lingering death. The pirate meets his foe or seeks his prey when death or danger stare him in the face ; and when he falls before the sword of justice, some sympathy may mingle with his shame, and men regret that one so brave in manly enterprise should fall so ignominiously. But here is an attack upon a wo-

man, far from her husband's side, from friends and home, whose infant sons are yet too tender to avenge their mother's wrongs. The forger counterfeits some instrument to cheat you of your money, and for that crime spins out his wretched days in hard captivity, in infamy and labor: will you compare his crime with that of one who, by his fabricated histories, pilfers from helpless woman the only precious jewel which she prizes, her more than life, her all, her spotless name? That which the robber or the thief purloins, may be retrieved or may be spared; but not the worth of twenty thousand beings such as this libeller, were he worth twenty thousand times as much as ever he will be, reform how he may, would pay the twenty thousandth part of that which he has taken.

The libeller who writes against abuse of unjust power, who vindicates the cause of liberty and right, when he exceeds thro' zeal for liberty, or through the warmth of opposition, or even a stubborn spirit, is often loved, and often, though found guilty, he still has friends that honor and respect him. But the historian who takes such pains to rake up filth from every dirty and polluted source, to make a history, of which the scandal may enhance the sale, is a corrupt malicious slanderer, without one circumstance that can excuse or palliate.

I had almost forgot—it is set up as his defence that he is an *historian*. It is the first time that I ever heard a rule of law so dangerous as that a gazetteer who strings communications, articles, and paragraphs, with notes, that overrun his feeble text, like brambles shooting up and down and across in some rank uncultivated soil; that this man has any privilege to libel names fairer than his own. Is it because his sheets are stitched together in octavo form and covered with some pasteboard! that therefore he is privileged in slander? It would have been well, some days ago, if his brother editors, against whom he got damages for being his historian, and calling him a British emissary, had sold their works in boards; they might most readily have found as many witnesses, and full as good as he has called, to say, not that it was true, but that they had enquired and were told it, and verily believed it. They might have said it first themselves, if they had been corrupt enough to do it, then received it back again, and published it as the history, not of Tom Paine, but of that greater man who rendered a wondrous benefit to succumbing faith by putting Paine down just after the grave-digger had put him under ground.

It is argued that every thing should be intended in favour of this defendant who has written so godly a work against the prince of deists, and for the holy gospel. I am sorry to hear ar-

guments advanced; to burlesque religion. He a man of God! He write for the love of God! His book a godly book! a vile, obscene, and filthy compilation, which bears throughout, the character of rancor, and tramples upon every christian charity. Libel an innocent woman, lie and calumniate for the sake of christianity! If this be the only godly deed this man has done, I pray to Heaven to be more merciful to him than he has been to Mrs. Bonneville, and for this very work of godliness that he may not be damned. If you be christian jurors, punish him; for be assured of this, that twenty Paines, were twenty such just now upon this earth, could not conjointly do more harm to christianity by their most violent efforts, than this man by defending it would do. If any one of wavering faith should hear that the best vindication of God's word was this most libellous and scandalous work, he never would be christian from that hour. Not every one that saith Lord, Lord, shall enter into the kingdom of Heaven, but least of all he that makes the blessed name of God a cloak for malice and iniquity. He may be like those priests of whom we read in history, who with their holy cross in one hand, and bloody sabre in the other, commit atrocities at which nature shudders. Where did he learn that the God of mercy took delight in human sacrifices, and that to do him honor a woman's heart must palpitate upon a bloody altar? Has he ever read the word of God; or, this heavenly historian, does he know one letter of the gospel history? If he does he is as blunt and dull in understanding, as he is dead to sensibility and delicacy. When a woman was brought before the author of the christian faith, taken in the very fact of adultery, what did he say? He left behind him a lesson of tenderness ever memorable and divine. Let him, he said to the fanatical and malignant rabble, let him who is innocent cast the first stone. And if this christian historian had ever known or felt the benignant spirit of holy inspiration, would he not be sensible that he was not that innocent? If he be innocent, then are tigers gentle. If Mrs. Bonneville were as guilty as he no later than this day proposed to prove her, was there no better way to recommend the christian faith than by upbraiding her with such pert and contumelious insolence? But when we prove her innocent, when she comes from out the fiery furnace unhurt, unscorched, then "the more angel she, and he the blacker devil."

But it is said he acted *bona fide*. He made inquiry and he was deceived. And being an *historian*, is justified even for the blasphemies he this day uttered by his counsel's lips. If this be so, much as I love this country, admire its people, and revere its laws, I would rather once more tempt my wandering destinies

than live where one *historian* was unpenned, unmuzzled or unchained. I had rather be exposed to some deformed thing with claws, and horns, and tusks ; some spit-fire dragon whose breath was poisonous, whose tooth was cankered. Tell me of all the monsters that ancient history or fable treats of ; of harpies, hydras, Caledonian boars, of Minotaurs and Pythons, of Gorgons and Chimeræs, of fierce ferocious animals that prowl the desert or fright the haunts of men, and I will tell you of a more fearful monster—that is, an historian ! If every man that keeps the worst of company, that goes about to hunt for lies and scandal, whose organic and natural perceptions are turned to wickedness, whose scent is fitted only to run the track of slander ; if such an one be an historian, and may vend in open market the scandal he runs down ; better that letters never had been known, printing invented, nor history composed.

The plagues that accident or nature bring must be endured ; the ills with which an angry providence sometimes thinks fit to scourge the sinful sons of man must be submitted to with pious resignation ; but that a common libeller should be invested with more than kingly power and prerogative, is what I never heard of.

Gentlemen, I have been drawn in to say more of religion than I could wish to do. Not that such things are not both good and fit to say ; but I would willingly avoid a topic so sacred, because I am not worthy to discuss it, and because it sometimes is a cant ; and nothing is more odious than a canting lawyer ; not even a canting libeller. I have cited cases where it has been held no justification of a libeller that what he published had before been published by many others, and uncontradicted. I have produced the statute which declares the truth itself to be no justification, unless the defendant make it satisfactorily appear that he published that truth with good and justifiable motives. I have cited English cases where the good intention of the defendant was not allowed to justify him, for this plain reason, that acts in their own essence criminal furnish the inference of malice and of bad intention. As well the robber or the murderer might say that some one told him the victim of his fury deserved death, and upon such suggestion constitute himself his legislator, his accuser, his judge and executioner.

If the defendant's counsel had proved their client an idiot from his nativity, or one deranged in mind, or under the influence of temporary phrenzy, they might then have excused him : but on the contrary, they have compared him to the great names of Burke and Bishop Watson ; nay more, they have modestly preferred him to them both ; for they assert that his vile book has

been the ablest refutation of the Age of Reason that ever issued from the pen of man. Was not this gross and rank! Mark but the difference. When Paine was in the vigor of his mind, when his extraordinary writings had partizans and countenance to back them, they attacked him with manly energy. They provoked an answer, which gave the world to judge between their arguments, and left behind a monument of splendid controversy. Not so this man, who lurched, and dodged, and crouched, till death had done his work, and then came forward, after his adversary's tongue was mute for ever, to prove he was a beast. If he was a beast, even, he was king of beasts compared to this one: for you remember all what kind of beast that was that kicked at the dead lion.

But since we are upon the subject of this *God-like* work, this *history* which I could never wade through, the very preface is enough to show you what the writer is, and whether he has written faithfully, without deceit or malice:

In the 21st page of his preface, he states, that on the arrival of Tom Paine, he was the chosen man that took upon him to procure a lodging for him, and the first that sat at the same board with him. "I engaged a room for him in Lovet's hotel, supposing him to be a gentleman." And in the 23d page of his preface he says—"My acquaintance continued with him, with various views, two or three years." Now weigh this well. Paine was as much a devil then as when he died. The defendant knew him for no other than Tom Paine, the author of that very Age of Reason which holy inspiration now calls upon him to arraign. Yes, he was the first to wait upon him and to welcome him; to take a lodging for him, and to continue his intimacy with him with various views, two or three years. "My intercourse (says this historian) was more frequent with him than agreeable; but what I suffered in feelings from his want of good manners, his dogmatism, the tyranny of his opinions, his peevishness, his intemperance, and the low company he kept, was perhaps compensated by acquiring a knowledge of the man. The latter part of his life was spent in the city of New-York under my own eye; but I have made particular enquiries of the persons in whose houses he successively lived, as to his manner of living, his temper, and his habits. The facts respecting his death and burial I have from a humane and sensible *quaker gentleman*, from Dr. Manley, his kind and attentive physician, and from his nurse, a woman of *intelligence and piety*." Well said! humanity and piety! Most humane doctor! most pious nurse! benevolent and chaste historian, that haunts the living to revile the dead; that keeps his ravenous eye upon his prey, and follows him just as the

shark does the distempered vessel, to feed upon the carcase ; that leagues with honest doctors and pious nurses, whose babbling gossip he vouches for the truth of his most christian history ; doctors and *pious* nurses who betray the wretched secrets of human frailty and dissolving nature, to this evangelical historian, who gloats with pleasure at the odourous details, and gives them to the world as the generous dedications of apostolic zeal, that labours in the vineyard of faith to save poor sinners' souls ! Oh, vile hypocrisy ! oh, gross imposture ! And will you, honorable citizens, be gulled by this ? Will you believe it possible that this man has no malice ? To my imagination his own story presents the image of some nasty vermin engendering in the morbid parts of some decaying body ; the creature of corruption ; the precursor of dissolution ; that like a worm or a maggot, begins but where life ends, and battens in the bowels of disease.

Gentlemen,

I do not speak at random. This history is now in evidence, and every line of it is now before you. I never read it : but my eye has caught some passages, that warrant me to say, the author was malicious and unfair, and neither could nor did believe the truth of what he wrote, nor in the honesty of those from whom he got it. No ; but he went about, like those that buy old rags and broken glass, and sought for nothing sound, or whole or cleanly. He went to the house of Mr. Hitt, (I have marked the page down for your inspection) and Mr. Hitt being too honorable to hold such vile communion, or furnish a libeller of the living and the dead with any vicious calumny against the man his roof had once protected, or violate the faith of hospitality, he sets him forth in history as a concealer of all heavenly truths, and travels round to gather scandalous gossip from angry enemies, from disappointed claimants, from soured expectants, from adverse litigants ; from pious nurses, and from chagrined doctors, whose bills and charges were disputed ; and then returns with his dirty budget, not like the bee that sucks sweet honey from the fragrant flowers, but like a wasp whose only industry is in his sting, or like a serpent, who leaves the wholesome food that nature spreads, to feed his venomous maw with what is rank.

He knew Tom Paine to be the author of the Age of Reason ; yet in his book he states himself to be the very man who took upon himself the friendly and amiliar office, on his return from France, to take a lodging for him. In the very preface of his history you may read this. He sat at table with him, whilst he ate beef-steaks, drank beer, and looked so ugly. He continued his acquaintance with him " with *various* views." He was his eulogist and his commemorator, that is notorious. And on this trial

he seems to have no friends to vouch for him but all the worst of Paine's. What could his counsel mean, who opened with the proverb, 'Tell me your company, and I'll tell you who you are.' You see how truth will pierce through brazen walls. But he goes further, and in his history he gives to the world some of Paine's writings, which the public eye had never seen before, so profitable is his industry!

Gentlemen,

I never saw Tom Paine but twice or thrice. The first time was in Paris; even then he seemed to me the type of fallen manhood, a melancholy ruin. His habits then, not suiting well with mine, I left him to himself. I had no "various views." I never did commemorate him living, nor libel him when dead. I never was his host, his guest, nor tavern companion. I take his picture, therefore, from his historian; and I ask, could he believe, that such as he describes him, a wallowing, withered, filthy being, uncleanlier than the swine, the filthiest thing that ever walked erect; old, petulant, ill-natured; carbuncled, cuprosed, a drunkard, a stinkard, and a miser; a hater of the sex, who did not consummate his lawful marriage—I ask it in the name of heaven and truth, if this were so (and if it be not so the historian lies) could he believe that such a one as that ever seduced a woman? Did he believe that such a piece of flesh, and, at a time when he was both proscribed and penniless, lodged by the bounty of a husband, immersed in dangerous controversies; that such a one could be the gay and fortunate seducer of a lady, bred up at Paris, in the pride of life, of polished habits, and personal attractions; and have seduced her from the father of her children, a man of personal figure, manners, and shining acquisitions? One of his counsel argued, as if he thought his client's cause the safer, the more it was entrenched in heaps of calumny; that if she did not love his person she did worse, she loved his principles. Gentlemen, this lady had no more to do with his opinions than you with those of Mr. Cheetham. She neither hated him nor Mr. Cheetham, as those who love his new-born virtues did two years ago. And at this hour she is perhaps to learn his opinions, so foreign are such topics to her guileless nature and her feminine spirit. Nay, more; she did not even speak Paine's language, nor he hers. This you may gather from the evidence, and from the history, which is now evidence. Paine never could speak French, though he could read it; she never spoke the English, till she learned it here; and Mr. Underhill, the defendant's witness, has confirmed this, because in mimicry he tells you, that after years of residence she spoke imperfectly, and challed her child Paine's *shild*.

Could this man then believe, even on an atheist's faith, though he affirmed it with uplifted hands, or on the faith of the most "pious and intelligent nurse," that kites and doves would bill and beck together? If he is not credulous enough for this and more than this, he does not, nor he did not when he wrote, believe the horrible slander. No, gentlemen; but truth was not his wish. He wanted filthy anecdotes to swell his scandalous chronicles, and make his history a precious merchandize for all the idle and illiberal, who take delight in wonders and in wickedness.

But it is said, all this must be excused, because he is a laborer in the vineyard, a christian hero, and historian. Whence fell this sudden dispensation upon him? Did the star shine upon him from the west, or from the east, whence wise men come? or who ordained him to uphold that faith which no man in this country except his atheist friends and he himself had questioned? or if it was in danger and likely to succumb, could it receive from the attacks of twenty such as Paine so great an injury as from one single advocate like him, who lives by writing down all character, and trampling under foot all christian charities? Are there not venerable men enough, who spend their youths in studying, and their maturer years in teaching christianity; and do they want the aid of common libellers? Are there not those, the chosen of their flock, whose pure and innocent lives give efficacy to their words? good fathers, faithful friends, and tender husbands, who practise what they preach; whose gentle manners and mild intercourse inspire your souls with reverence and love? whom you can hear with confidence and follow with delight? who in your sickness visit you, in your afflictions comfort you? with whom you and your families can join in modest prayer before the altar of eternal mercy, in blessed hope of everlasting life? with whom invoke his power, who by whatever name he may be called, thro' whatsoever medium the erring eye of weak mortality may view his image, is ever God? But shall such ruffian accents interlope between God and his ministry, and trouble the peace of heaven and of man? Has he not libelled woman? He has! and never could the foe of woman's peace be friend to God or man!

I do not say that reformation may not light upon the veriest sinner. And we are told there is more joy in heaven for one repenting than ninety-nine that never went astray. Be it so. But true contrition is marked with meekness and humility. Has his been so? No! If he now repents, 'tis like an angry wolf that stands at bay grinding his teeth, and who repents of nothing but of this, that he is caught. The words his counsel opened with this day, were they like penitence, when he threatened deep shame and ruin to this lady and her friends? to make the colour

made upon her cheek? regretted that her son was not then present to stuprate his own mother, and hoped she might be then in court to hear him say so? Was it repentance to have first pursued her into the privacy of modest life, and at the shrine of blessed hospitality, before the household gods of her protectors, like to a sanguinary savage, assail her with his club? Was it like penitence, within this hour, here in the sanctuary of the law, once more to lift his worse than homicidal arm, and aim another dagger at her breast? Is this that true repentance in sackcloth and in ashes, that moves man's pity and heaven's mercy?

There was a monastery where deadly crimes were expiated, called *La Trappe*: when sinners entered it they made a terrible vow of everlasting silence, and from that awful moment never uttered word, and daily with their nails dug their own graves. When midnight bells tolled them to prayer, they left their solitary cells, and moved with noiseless step through gloomy cloisters and whispering aisles, with downcast look, turning their rosaries, but never spake. Such is the penitence, such the eternal silence that would become the ruthless slanderer of woman's honor. But he who acts the bully and the bravo, and calls himself the champion of high heaven, what words can paint the horror he inspires! Then let us leave him.

My duty calls me now to recapitulate the testimony of all his witnesses. The first and principal is Mr. Carver. He with uplifted hand, affirmed, by the everliving God, the truth of what he testified—and what was that? His letter tells us all—That he and Paine had a dispute for money; and in their correspondence you may find the crimes and baseness they reciprocally urged against each other. Mr. Carver, whose vulgar scurrilous letter makes the chief buttress of this man's defence, the more to spite his adversaries, flings out some calumny against the lady he befriended. Carver himself admits, that when she got a sight of it, she threatened to prosecute him for that very letter. Yet on no better ground than on that letter has this audacious libeller defamed her reputation.

From the same source springs the infernal hint that little Thomas Bonneville had the countenance and features of Tom Paine. In his little nose no doubt the historian could discern, by learned inspection, the germs of future blossoms, and gems that in due course of nature should come to this world's light.

Carver gives evidence of what *he heard* from Paine of Mrs. Bonneville, which he himself retailed to Cheetham; and Cheetham, rather than such sublime history should not shine forth to save poor sinners' souls, becomes *historian* for the love of God,

and gives them to the world as *history*. This is the history of this *historian*, and this *historian's history*.

Now, gentlemen, supported thus, the historian had such faith in atheists, as rather to presume their slanders true than any woman virtuous. Again, the story of Mrs. Bonneville's never having been the wife of Mr. Bonneville, which Carver writes that Paine did say in speaking *harshly* of her, and which is evidence before you now of this man's malice, being in his history; this, I say, he could not have believed, because it came from Paine, of whom both he and Carver write that he did never speak a word of truth. And more, see what a strange dilemma he is in, when first he states that Mr. Paine seduced her from her husband, and then he shows you in another page she never had a husband. How beautiful and uniform is truth! How multiform and intricate is falsehood! How like the spider's flimsy web! How like the coiling of the scaly serpent the windings of the guilty.

My eye just glanced upon some words where there is mention made of Paine's last *will*. That is the key to the mysterious league of apostolic slanderers, mortified expectants and disappointed speculators.

Perhaps the lady's greatest crime was that which did not come to light till Paine was "in the dark and narrow house," that in return for the compassion her husband had bestowed upon him in his worst days of tribulation, he constituted his benefactor's wife and children his legatees. Hence too, the strong resemblance grew more strong between the god-son and god-father. It is a blessed thing that whensoever wickedness and anger is most rife, the worst of slanderers finds at his elbow an historian that will give body and duration to the troubled passions of his soul, who will not give them time to cool, who will not even wait till they are brought to him, but goes about to look for them as beggars do that pray for broken meat and offals at your kitchen door.

In this godly history is Madame Bonneville charged not only with adulterous prostitution, but with swindling: and it is said she offered Paine a bond to sign, alledging that it was an order for some clothing for her children. For this, too, Mr. Carver is the author; although this day he swears he never saw that bond, nor is there one in life that ever did. It is a slanderous tale, that ought to choak the utterer, and stands at best on what Paine said on the report of Carver, which Paine (both Carver, and Cheetham the historian, say) never told any truth. But can he be believed, who came this morning to protest, and swagger, and maintain this truth, and now has no defence but that the same is false, *though not malicious*? If it be not malicious, panthers are gentle, and vipers very harmless.

I cross-examined Mr. Carver, and asked him this, whether his evidence had not been disallowed in courts of justice by reason of his infidelity. This I did, not from any canting motive of self-arrogated piety, for that is odious, but to show that the main prop of all this godliness, and proud defeat of atheists and deists, was himself an atheist, and perhaps the only one this country ever saw.

He first evaded. I asked him whether Mr. Emmett, there before him, had not made that objection, and if it was allowed? There was, says he, some such objection made, *I was not sworn, and I walked away!*

I asked him, then, if Mr. Griffin, the defendant's present counsel, who this day bestowed upon this lady the sharpness of the bitterest invective that tongue could utter, but who not long since had gained the palm of eloquence by painting his now client as the veriest monster that disturbed the walks of men; I asked Carver whether he too had not objected to him. Again he parlied. I stated to him the question and his own answer—"Do you believe in a future state of rewards and punishments?" "I once did not, but since I have recanted those opinions; for seeing that kings commit so many crimes, and that there is no power to punish them, and lawyers never think themselves enough rewarded in this life, I came to the conclusion that there must be some future state, when kings would meet their punishment, and lawyers get their last reward." Gentlemen, such as Mr. Carver may seem to you, at best a witty profligate, yet I would rather trust him still, than the defendant, who seeks to throw his crimes upon his head. He that professes open deism, or even atheism, which is a mere equivocation and abuse of words, as that there is a power greater than man none ever truly doubted—he still is less obnoxious in my sight, than one who without any spark of faith or charity, professes outwardly to be a christian.

Mr. Carver adds, it was about two years, or three years, since through these meditations upon kings and lawyers he became a convert: till then, he swears with his uplifted hand, he was an atheist; but now he is a firm believing deist, and in such quality can furnish matter to any christian book-maker who is disposed to write down woman, the fairest of God's creatures, for the love of God.

I pushed him further, and he stated that *he and Mrs. Carver, his own wife*, had often gone to Mr. Purdy's, on the farm, to visit Mrs. Bonneville. Then it was, that seeing the toils in which his honesty and decency had fallen, he tapered off by saying, he never had seen the slightest indication of any meretricious or illicit com-

mercé between Tom Paine and Mrs. Bonneville ; that they never were alone together ; and that all the three children, the little god-son Tom and all, were *alike* the objects of Paine's care. Yet upon this authority did the defendant say, in terrible menace, to the surrounding and astonished crowd, not that he was mistaken, not that he was repented of all that he had published, and sorry for what he had done, but that he would prove it true, and prove much worse, and other things more shocking and more cruel than ever till that hour had proceeded from the tongue of honorable counsel or good men against a woman.

Mrs. Ryder, whom he has dared to vouch among his compurgators, damns him deeper still. Paine lived with her, and Mrs. Bonneville often came to visit him. She never saw but decency with Mrs. Bonneville. She never staid there but one night, when Paine was very sick. And when the historian came to make inquiries as an historian, he never questioned her, but inquired only of her husband. Why not ask of her? Women, however amiable, are keen observers of each other. But he knew, perhaps, that she would tell him what she now swears here, that the demeanor of this lady was decent and respectable: and such accounts would be to this historian, even as the taste of manna and of bitter herbs; for slander only suits his appetite. But Mrs. Ryder often told Paine the child was like him. Did she so? And is every innocent saying of a merry wife, who tries to force a smile upon the furrowed cheek of tottering age; every playful joke that fondling mothers use and gossips prattle, to be distilled in the alembic of the poisoner, to make up deadly potions?

Then Mrs. Dean was called to prove the lying story of the bond. She tells you, on her oath, she never told him of it, as he states she did. She tells him to his beard she never saw his face before, nor spoke to him of that or any thing. In this disgrace he calls upon his Mentor, his demi-god—Carver, the atheist, (or, if you will, the deist) to belie the honest gentlewoman, and prove by the scrupulous virtue of his uplifted hand, that she his witness was a perjurer; thus adding to the crime of Mrs. Bonneville's wrongs, an insult to another virtuous woman.

Next came the reverend Mr. Foster. To reverend men great reverence be given. He has a claim against the estate of Paine, for the tuition of the little Bonneville's. It is disputed, I believe, in law. He was called to justify the historian on his own authority, for having written that Mr. Paine seduced her from her husband. What does he say? He says that "Mrs. Bonneville *might possibly have said as much* as that but for Paine she would not have come here;" and that Paine was under special

obligations to provide for her children. In this Mr. Foster has proved the defendant more guilty than he was before ; because these words, if true, could never warrant him or the historian, unless they both were fools, to say that Mr. Paine was Mrs. Bonneville's paramour. The thing was plain enough, when malice did not warp it. Her husband had been kind to Paine in Paris. He promised gratitude and mutual succor, if ever terror or disastrous fortune should banish the family of Mr. Bonneville from their native land, One child he had adopted, he was his god-son ; the others he had promised to protect. Who but a fiend would have inferred from this, who but a slanderer have published in a history, that this old man seduced that lady from her husband's bed ? If such historians are allowed to write down character, better have that lion's mouth which once belonged to the inquisitorial government of Venice, where every vile informer or denouncer might throw in what he pleased, and ruin whom he chose.

Doctor Manley said, she wished that Paine was dead, and Mr. Cheetham had that news from him ; but whether from feeling and compassion for his sufferings, or other motives, he could not tell. These qualifications being in the work, we are contented to give up that count, and I shall make but this remark, that if there was not malice, it was worse than useless to introduce that fact into the history. And let me just observe, that Dr. Manley had also a dispute touching his bill, which was objected to as being unreasonable, and reduced.

And now for Peter Underhill. A few days since the defendant postponed his trial, by swearing to the court that Peter Underhill was a material witness, without the benefit of whose testimony he could not, as advised by counsel, and as he verily believed, proceed to trial. What does this said Peter swear to-day ? That he (said Peter Underhill) one day told Mrs. Bonneville, that her child resembled Paine, and Mrs. Bonneville said it was Paine's *child*. If Mr. Underhill said this in any other way than innocent mirth, he proves himself unmannerly and insolent, for having so affronted any lady. If Mrs. Bonneville answered as he says, it must have been out of good nature, and that gaiety the characteristic of her countrywomen, that plays around them like a lambent light, even in their sorrows, which none but sour and ignorant bores will construe into guilt. Did Mr. Underhill, or the historian who promulged his slander for the love of God, believe that any woman, would, apropos of nothing, without inducement or motive whatsoever, seriously hold out her child and say to him, I am Paine's whore, and this my infant is his bastard ? To the character of this *material* witness we called two wit-

nesses. The first was Mr. Pelton, who knew something particular of him that was *wrong*, but scrupled to declare his *general character*: but at the same time told you that Mrs. Bonneville was a modest woman, and an acquaintance of his own wife, and that her children were all alike the objects of Paine's care.

Judge Sommerville, of Westchester county, supplied all that was wanting in the testimony of Mr. Pelton: for he said that in *one single transaction* he could say good of him, but that his general character was bad. But as to Mrs. Bonneville, judge Sommerville said, he often saw her, and never heard the slightest word against her, and that Paine always spoke of her with respect.

Here ends the black conspiracy and conjuration for the love of God. And now the sickened soul revives, and a bright scene appears—A group of matrons, led by the hands which holy wedlock had joined to theirs forever. Heads of families, beloved, distinguished, full of respect and honor; in form so bright, in innocence so lovely; so pure in unsuspected truth, so proud in conscious worth and dignity; who never till that hour had crossed the threshold of a court of justice; or been where discord reigns; whose lips had never uttered other oaths than those which bound them by the willing ties of constancy and love; who, when the seraph voice of pity called them down, first glided from their spheres upon the wings of heaven-born charity, and, having done their mission, disappeared. But oh! it was a holy sacrament, when wife and husband twined their oaths together with such solemnity, such beaming truth, as when they made before the altar of their God, that vow, so full at once of joy and awe, that linked their future destiny together, and made them ever one. They would have told you of this lady's sorrows and her resignation, of her spotless conduct, of her merit; how they entrusted to her care and tutelage the jewels of their souls, the children of their hearts; with what reproachless truth, what anxious duty she answered to the trust; had not the rules of evidence and technical formalities of law cut short their story. Her general character was all they were allowed to testify. Their words were few, but like so many messages of grace or high commands from heaven.*

* The group of matrons alluded to was, Mrs. Edgar, Mrs. Turnbull, Mrs. Thomas, and Mrs. Ludlow. Mr. Edgar, Mr. Emmet, Mr. Fulton, and Col. Few, were also witnesses to the irreproachable character of Mrs. Bonneville; and Mr. Jarvis, Mr. Hitt, Mr. Ryder, and Mr. Purdy, at whose houses Paine had lived, at different periods, and Mr. Doyer, who had known Mrs. Bonneville only since last fall.

Then, as the day dispels the shades of night, the ugly goblins fled. Then, the menaced and trembling victim, delivered from their spells, came forth arrayed in the white robe of innocence. Then, Lucifer was forced to bow in homage to the truth. Then all his conjurations vanished like frightful dreams, leaving no vestige to the waking senses, but that vague horror that lingers like sulphureous odors after extinguished flames; and the same tongues that within one short hour had spoken such words as never honest men before (and honest men I still must think they are) had launched against the honor of a woman, then they too changed their tune; and he who last addressed you,* with palsied tongue, and eloquence subdued, too good to persevere in spite of Heaven, cried out *peccavi*. True, we have sinned, said he, true we have written lies and calumnies, but we are innocent; for what we wrote, we were set on to write. *We were historians*, and Carver told it to us, it was in Carver's letter, his scurrilous letter to his friend and inmate, and touching the companion of his wife; how could we doubt that it was pure and faithful? For Carver was both atheist and deist; what motive could we then suppose in him, but that which prompted us, the love of Christ, whose militant we are !!!

And further say his counsel, the lady should have brought a civil action. If we had brought such action and sought damages, then would they not have cried, see how this lady prefers her private interest to public justice, how she makes merchandize of reputation? They say we should have prosecuted Carver, and Mr. Cheetham would have been our witness to prove him guilty. I will not answer to such mockery. We scorn the testimony of approvers and parties in the suit, much more of principals. However bad Carver may be, he is better still than Cheetham. He *was* an atheist, he *is* a deist, but he tells you boldly what he is; and even in that there is more honesty than if he did profess himself a christian and was not one. A deist may be honest, many are so, and between this publican and pharisee, he goes away justified rather than the other.

They say that less will justify on an indictment than a civil action, which I deny; the reason is the law, which says that no man shall disturb the peace by uttering reproachful, malicious and provoking sayings, however true. And it is plain and simple. If any have committed crimes they should be brought to justice and to trial; but no man has the right, not even an *historian*, to usurp, as I have said, at once the powers of legislator and accuser, of prosecutor, judge and executioner, and mow down all be-

* Mr. David B. Ogden.

fore him. Whereas in civil actions, there may be mischief done, and yet no right to damages, as in the case of *common libellers*, who have wolves' heads, and being in hostility with mankind, have no claim for that right of private reputation which they do not respect. English judges have gone much farther, and have said, the greater the truth the greater still the libel. I do not justify that saying, although it was the saying of the great lord Mansfield. It was wrong, and I have always set myself against it, even at my peril, and to my loss.

I have cited English cases, where it was held that good intention would not justify, because no man shall stultify himself. But if that was here the justification, the counsel should have maintained, not that the client was a wise and great historian, but a maniac without a lucid interval, or idiot from his birth. The guilty act alone is evidence of malice; the fact of being an historian no more rebuts it, than if a man should murder, and then say, I was told to murder; I saw a letter which made me think the man I murdered guilty; I murdered him, but not from any malice: though I am an assassin, and live by killing, I kill none but those I am told are guilty; I do it then for God's sake; I have no malice. I have shown American cases that bear on the same point: but above all, the statute of this state, which says, that in such prosecutions as the present, the truth itself shall never justify, unless it be moreover made satisfactorily appear in evidence, that the publication was from good and justifiable motives. The truth is now abandoned, the falsehood owned. But it is said, the English cases are not law, and that the statute here does not apply. I never liked the English law of libels, nor ever understood it. It seems to me to have its roots in the Star Chamber, or to have shot in storms and convulsions when the powerful party still shaped and stretched it to its purpose. I have often defended persecuted printers against its oppressions, but never till this day prosecuted any. With utmost deference I say it now, I do not like the law laid down this day: and if the right of taking an exception extended to a criminal case, and why it does not I know not, I would humbly and respectfully do that. The mighty judge that I have mentioned, lord Mansfield, erred on the same subject; and the finding of juries against his charge, who by the constitution in such cases are judges of the law and of the fact, were sanctioned afterwards in England by parliament and people, and brought about a statutory law, in confirmation of their right. If any law be stated now to you, to which your understandings or your consciences cannot assent, I would then refer you to that paramount sanction which is above all human law. The wives of your own bosoms are not more pure than this injur-

ed lady is proved, nay more, *admitted* now to be. If they were stigmatized by an *historian*, what would you say of him ; that he was innocent or guilty ?

You have heard the witnesses for Mrs. Bonneville, and you may judge if this historian had inquired of them, instead of grubbing filth from every dunghill, how bright a name she then would have deserved, who has been, notwithstanding, doomed by this terrible man to misery.

If he had begged access to any of those high distinguished persons, whose children she had taught ; of Mr. Emmet, who oppresses no one, but protects the innocent ; or of Mr. Fulton, who knew her and her husband in their native country ; if he had asked of Mr. Jarvis, that man of keen sagacity, of observation, with knowledge of mankind, and of all the parties, whose curiosity might have induced him to entertain the man, but never to betray him ; if he had been satisfied with Mr. Hitt's words, rather than that of " pious nurses, and kind attending doctors," and reverend teachers, who had disputes and law-suits, he would have known what all but his mutinous genius now concede. I have no cause of private malice against Mr. Cheetham, but quite the contrary. When he had any spark of character, he praised me more than ever I could merit, and I could not but thank him. When he had nothing good to give but his abuse, without offence or change in me, he gave me that with equal liberality, and again I thanked him. If I could ask a favour of him now, it would be to abuse me more and more, but never let his malice go the length of praising me ; for though my friends who know me well might not despise me, yet in this community where I am little known, and still almost a stranger, I may not yet have formed sufficient character to stand against his praise, nor be entitled to so much indulgence, that it should be believed that I could have his praise and yet be honest.

I have not chosen to be his *historian*, nor to inquire into his private and domestic virtues ; that is beneath me. I have not used those common topics of abuse, that he was bred an ignorant mechanic ; because, if he had raised himself by talents from that station, it would be to his honor, and rather serve to excuse the coarseness of his style and manners, than to aggravate them. I call the Judge of All to witness for the honest motives with which I have arraigned him : and having labored in a good and sacred cause to do my duty, I finally protest against injustice from whatever quarter : I register that protest in the archives of heaven, and leave the rest to you.

64

